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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Amendment to the Commission's Rules)
To Permit Flexible Service Offerings) WT Docket No. 96-6
in the Commercial Mobile Radio Services)

To: The Commission

COMMENTS OF AT&T WIRELESS SERVICES, INC.

AT&T Wireless Services, Inc. ("AT&T"), by its attorneys, hereby submits its comments in support of BellSouth Corporation's ("BellSouth's") Petition for Partial Reconsideration or Clarification of the Commission's Report and Order in the above-captioned proceeding.^{1/} AT&T agrees that Section 22.323 of the Commission's Rules is inconsistent with the Commission's decision in the Report and Order to permit fixed services to be provided on a primary basis with mobile services.^{2/} To correct this inconsistency, the Commission should eliminate Section 22.323, or alternatively, clarify that Section 22.323 does not apply to any service offered pursuant to Section 22.901 or the Report and Order.

In the Report and Order, the Commission found that defining authorized fixed services in terms of whether they are "ancillary," "auxiliary," or "incidental" to mobile services caused uncertainty among carriers and discouraged them from providing fixed services on their

^{1/} Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, WT Docket No. 96-6, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8965 (1996) ("Report and Order"); Public Notice DA 97-2083 (rel. Sept. 25, 1997) ("Notice").

^{2/} Report and Order at 8973.

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spectrum.^{3/} The Commission accordingly amended Section 22.901(d) to remove this uncertainty and permitted fixed services to be provided on a co-primary basis with mobile services.

Section 22.323 allows licensees of cellular systems “to provide other communications services incidental to the primary public mobile service for which the authorizations were issued,” if the licensees satisfy certain conditions, such as ensuring that their provision of incidental services does not increase the costs and charges for other subscribers and does not cause the quality of the primary public mobile service to materially deteriorate.^{4/} Licensees must also notify the Commission by letter before providing the incidental service and include a complete description of the incidental service.^{5/} It is not clear whether or not licensees must comply with the requirements of Section 22.323 before offering fixed services. Because the Commission found previously that a lack of clear rules will discourage CMRS licensees from providing fixed services, the Commission should eliminate Section 22.323 or clarify that it does not apply to any services offered under Section 22.901 or the Report and Order.

In view of the competitive market conditions in the CMRS industry, AT&T agrees with BellSouth that there is no reason to preserve Section 22.323.^{6/} A competitive market allows customers that are dissatisfied with one provider to switch to another, ensuring that providers do

^{3/} Report and Order at 8970.

^{4/} 47 C.F.R. § 22.323 (emphasis added).

^{5/} 47 C.F.R. § 22.323(d).

^{6/} As the Commission itself has found, the CMRS industry is subject to substantial competition. See, e.g., Implementation of Sections 3(n) and 332 of the Communications Act, 9 FCC Rcd 1411, 1478 at ¶ 175 (1994) (finding sufficient competition in cellular marketplace to justify detariffing cellular rates); In re Petition of California to Retain Regulatory Authority Over Intrastate Cellular Service Rates, 10 FCC Rcd 7486 (1995) (rejecting petition of California PUC to continue to regulate intrastate cellular rates as market conditions adequately protect consumers (continued on next page))

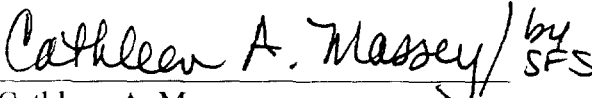
not charge unreasonable rates or allow the quality of service to deteriorate. As BellSouth points out, wireless providers will not jeopardize their relationship with their many mobile customers by raising the prices for, or decreasing the quality of, mobile service in order to provide service to fixed wireless customers.

CONCLUSION

Because Section 22.323 of the Commission's rules creates uncertainty about the regulatory requirements that govern the provision of fixed services and serves no practical purpose, the Commission should eliminate this rule or clarify that it does not apply.

Respectfully submitted,

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against unjust, unreasonable, or unjustly or unreasonably discriminatory rates).

CERTIFICATE OF SERVICE

I, Michelle Mundt, hereby certify that on the 12th day of November 1997, I caused copies of the foregoing "Comments of AT&T Wireless, Inc." to be sent to the following by either first class mail, postage pre-paid, or by hand delivery, by messenger(*) to the following:

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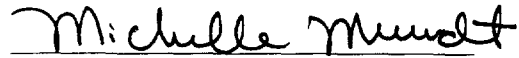
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